In the High Court for the States of Punjab and Haryana at Chandigarh

CR No. 2252 of 2018
Date of Decision: April 29, 2019

Buta Singh

... Petitioner

Versus

Gurcharan Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gagandeep Singh Virk, Advocate,
for the petitioner.

Mr. Gurbir Singh Pannu, Advocate,
for the respondent.

***Amit Rawal, J.* (Oral)**

Present revision petition is directed against the impugned order dated 10.01.2018 (Annexure P/6) whereby application of the petitioner-plaintiff for additional evidence has been dismissed.

Learned counsel for the petitioner submitted that plaintiff -petitioner filed the suit for specific performance owing to the fact that defendant had entered into agreement to sell dated 24.01.2001 and thereafter, the afore-mentioned date was extended on 25.03.2003. The plaintiff had concluded his oral evidence on 22.08.2016 and matter was listed for submission of the written documents. Plaintiff moved an application for permission to lead additional evidence. The trial Court has dismissed the application only on the ground that evidence had already been closed. It was not a case of rebuttal as defendant yet to complete his evidence, particularly when the defendant in the written statement denied

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the execution of the agreement to sell.

Learned counsel for the respondent opposed the afore-mentioned prayer by supporting the order under challenge, submitted that once the oral evidence is closed, the opportunity for leading the additional evidence ought not to have been granted.

I have heard learned counsel for the parties, appraised the paper-book and of the view that there is force and merit in the submission of the learned counsel for the petitioner as the procedure of law is handmade of justice and once there is emphatically denied of the agreement and extension, the onus is always on the plaintiff to prove in accordance with law by taking the assistance of expert for comparison of the disputed signatures and the defendant would have also to rebut the same in accordance with law. It is a matter of record that defendant has not yet led the evidence when the application was moved.

For the reasons stated herein above, impugned order is not sustainable in the eyes of law and the same is set aside.

Accordingly, present revision petition stands allowed.

April 29, 2019 **(Amit Rawal)**
vkd **Judge**

Whether speaking / reasonable : Yes

Whether reportable : No

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